

ENTERED

April 15, 2016

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

ROEL MARTINEZ

Petitioner

VS.

WILLIAM STEPHENS,
DIRECTOR, TEXAS DEPARTMENT
OF CRIMINAL JUSTICE, CORRECTIONAL
INSTITUTIONS DIVISION.§
§
§
§
§
§
§
§

CIVIL ACTION NO. 7:15-CV-112

ORDER ADOPTING REPORT AND RECOMMENDATION

Pending before the Court is Petitioner's action pursuant to 28 U.S.C. § 2254(g), which motion had been referred to the Magistrate Court for a report and recommendation. Also pending is Respondent's Motion for Summary Judgment. On March 10, 2016, the Magistrate Court issued the Report and Recommendation, recommending that Respondent's Motion for Summary Judgment be granted and that Petitioner's claims under 28 U.S.C. § 2254 be denied and dismissed with prejudice. The time for filing objections has passed, and no objections have been filed.

Pursuant to Federal Rule of Civil Procedure 72(b), the Court has reviewed the Report and Recommendation for clear error.¹ Finding no clear error, the Court adopts the Report and Recommendation in its entirety. Accordingly, it is hereby **ORDERED** that Respondent's Motion for Summary Judgment (Dkt. Entry No. 8) is **GRANTED** to the extent it is consistent with the Magistrate's Report, Petitioner's 28 U.S.C. § 2254 claims are **DENIED** and **DISMISSED** with prejudice, and a Certificate of Appealability is **DENIED**.

¹ As noted by the Fifth Circuit, "[t]he advisory committee's note to Rule 72(b) states that, '[w]hen no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Douglas v. United Services Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996)(quoting Fed. R. Civ. P. 72(b) advisory committee's note (1983)) *superceded by statute on other grounds by* 28 U.S.C. § 636(b)(1), *as stated in* *ACS Recovery Servs., Inc v. Griffin*, No. 11-40446, 2012 WL 1071216, at *7 n.5 (5th Cir. April 2, 2012).

SO ORDERED this 15th day of April, 2016, at McAllen, Texas.

A handwritten signature in black ink, reading "Randy Crane". The signature is written in a cursive, slightly stylized font. The "R" is large and loops around the "a". The "C" is also large and loops around the "r". The "a" and "n" are connected, and the "e" is a simple horizontal stroke.

Randy Crane
United States District Judge